

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

WP(C).No. 5575 of 2007(L)

PETITIONER:

P.O.SOMAN, PUTHENPARAMBIL HOUSE,
EDATHARAMUKKU, VADASSERIKKARA P.O.
PATHANAMTHITTA.

BY ADV. SRI.MATHEW SEBASTIAN

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DEPUTY DIRECTOR OF PANCHAYATH,
KOLLAM.
3. THE DISTRICT PANCHAYATH OFFICER,
KOLLAM.
4. THE KONNI PANCHAYATH, REPRESENTED BY THE
EXECUTIVE OFFICER, KONNI PANCHAYATH,
PATHANAMTHITTA DISTRICT.

BY GOVT. PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 5575 OF 2007

Dated this the 20th February, 2007.

JUDGMENT

The petitioner stands removed from service by way of penalty imposed on him on the allegation that he was unauthorisedly absent from duty.

2. The petitioner commenced service on 1.6.1972. With effect from 1.12.1980, on being posted in another place, he failed to attend duties after just reporting in that office along with the order of transfer. For quite sometime nothing was known about him. After a considerable period of time, he sought for reinstatement in service. The respondents took proceedings against him and after observing the procedure prescribed by law, came to the conclusion that there was no justification for him to absent unauthorisedly. The contention raised by the petitioner that he was suffering from mental disorder was found against.

3. The petitioner approached this Court earlier in 2001. Pursuant to the directions issued in that writ petition, the Government considered the plea of the petitioner. Ext.P3 order dated 19.7.2006 has been passed rejecting the representation of the petitioner. Against the order thus passed, this writ petition has been filed.

4. It is not necessary for this Court to examine whether the order removing him from service is vitiated or any procedural illegality or non-compliance of the procedure prescribed by law, because the petitioner admits in ground 'C' of the writ petition that he has no case that legal formalities had not been complied with before removing him from service. The only contention urged before me is that the respondents have failed to appreciate the materials made available to make them believe that he was suffering from mental disorder. I find no merit in the above contention. It has been found that the petitioner failed to produce medical certificate in support of the contention that he was suffering from mental disorder. He produced a certificate said to have been issued by one T.K.Pappu Vaidyar, which document on scrutiny by the departmental authority did not contain the signature of the person who issued it, the date on which it was issued or the nature of the disease the petitioner was suffering from. It was also found further said that the Director of Panchayats had recorded in his order dated 2.6.1984 that the petitioner had, in fact, gone to the office of the Deputy Director of Panchayats one day during the relevant period and was found not suffering from any mental ailment. The presence of the petitioner in the office of the Deputy Director of Panchayats on the aforesaid date assumes

significance because according to the petitioner, during that period, he was suffering from mental disorder.

5. It is trite that this Court will not reappreciate the evidence or materials leading to conclusions on disputed questions of fact under Art.226 of the Constitution of India. Even if I propose to embark on such unwelcome areas, I find materials justifying the conclusions reached against the petitioner and find no error, factual and legal, apparent on the face of Ext.P3. I am of the view that the Government have considered the case of the petitioner on merits and with due application of mind, though the petitioner had approached the departmental authorities after a long lapse of time.

6. The fervent request made by the counsel for the petitioner that Ext.P3 may be set aside and the Government may be directed to re-consider the matter once again, does not appeal to me for reasons aforesaid, as the proper course of action this Court is expected to follow in a matter of this nature. Writ petition fails and is dismissed.

K.K.DENESAN
Judge